

## **Wisconsin Department of Public Instruction**

### **Questions and Answers Regarding USDA Memo SP 59-2016:**

#### ***Modifications to Accommodate Disabilities in the School Meal & Special Milk Programs***

**Q1. What is the definition of a State licensed healthcare professional?**

- A. A State licensed health care professional (also referred to as a licensed medical practitioner) is anyone that is authorized to write medical prescriptions under state law. In Wisconsin, this includes a medical doctor or osteopathic physician (MD or DO), nurse practitioner, physician's assistant, dentist, optometrist, or podiatrist.

**Q2. Under the new requirements what is the difference between a disability and a non-disability?**

- A. The Americans with Disabilities Amendments Act has broadened the definition of disability to include any condition that impairs major life activities. School Food Authorities (SFAs) should no longer be analyzing whether or not a student has a disability, but rather should focus on how the SFA can make the National School Lunch Program, School Breakfast Program, and Special Milk Program available to all students. Any medical statement signed by a licensed medical practitioner must be accommodated. Requests that come from parents or non-licensed practitioners may be accommodated at the school's discretion.

**Q3. Are schools required to accommodate non-disability requests (for example, a note from a parent that is not signed by a licensed medical practitioner)? What about accommodating requests based on religious or moral convictions or personal preference?**

- A. No, schools are not required to accommodate requests that are not supported by a signed statement from a licensed medical practitioner. Schools may accommodate non-disability requests if they choose to as long as accommodations are made within the meal pattern requirements. Religious, moral, or personal preferences are not disabilities and do not require accommodation. SFAs must ensure that accommodations are provided to all students equally. For example, if dietary accommodations are made for students of one religion, accommodations should also be made for students of other religions. SFAs should develop policies that address how special dietary requests for non-disabilities will be managed in their schools. USDA has indicated that additional guidance on accommodating non-disabilities and/or those signed by individuals other than a licensed healthcare provider will be addressed in a separate memo.

**Q4. If we can accommodate a request within the meal pattern, do we still need a signed medical statement?**

- A. No. Dietary requests that can be managed within the meal pattern do not require a medical statement. However, schools may choose to require that a statement be submitted for all special dietary requests, disability or non-disability. It is strongly suggested that SFAs develop a policy to address how all special dietary requests will be managed in their schools.

**Q5. Is there a new medical statement/dietary request form that SFAs should use?**

- A. The DPI School Nutrition Team has modified our [template form](#) to reflect the changes in SP 59-2016. The most significant update is that the licensed medical practitioner is no longer required to indicate whether or not a student has a disability. SFAs are not required to use DPI's template. Signed medical statements must include:
- A description of the child's physical or mental impairment that is sufficient to allow the SFA to understand how it restricts the child's diet, and
  - An explanation of what must be done to accommodate the disability (for example, the food(s) to be omitted and food(s) to be substituted).

**Q6. What should our school staff do if a student with a medical statement on file is suddenly telling us that he is now able to consume items that are not allowed per the medical statement?**

- A. Under USDA regulations, parents may opt out of a special dietary needs request without signature of the medical practitioner or authority that first signed the statement. However, SFAs must work closely with parents to verify that there is no longer a need for the requested accommodation. SFAs should continue to provide the accommodation to the student per the medical statement until it is confirmed that it is no longer required.

**Q7. Our SFA received a medical statement from a licensed medical practitioner that requires the student to have almond milk instead of cow's milk. We already provide lactose-free milk and soy milk. Do we also have to provide almond milk, or can this student just take one of the two substitutions we already offer?**

- A. The SFA should work with the licensed medical practitioner and/or child's parents/guardians to determine whether lactose-free milk or soy milk is an acceptable substitute. Until you get further clarification in writing, however, you should accommodate based on the information written on the medical statement. Never make assumptions regarding a student's special dietary need.

**Q8. What do we do when parents say that they cannot afford to go to the doctor and get a medical statement signed for their child? Similarly, what do we do for our homeless students who do not have doctors?**

- A. SP 59-2016 only addresses student disabilities when they are supported by a written statement from a licensed medical practitioner. USDA has indicated that additional guidance on accommodating non-disabilities and/or those signed by individuals other than a licensed medical practitioner will be addressed in a separate memo. Dietary requests that are not signed by a licensed medical practitioner must meet the meal pattern requirements. For example, if a household requests a gluten-free diet but does not provide a signed medical statement, the SFA could choose to make accommodations that are within the meal pattern such as substituting brown rice or whole grain-rich corn tortillas in place of wheat products. In the case of a strawberry allergy, the SFA can serve a student any other fruit instead of strawberries. In these situations it is critical to work closely with each household on a case by case basis to determine how best to meet the needs of the student.

**Q9. We received a medical statement in which the parent wrote “gluten gives child stomachaches and emotional breakdowns.” This form was then signed by a licensed medical practitioner, but there was no diagnosis of a disability such as celiac disease or gluten intolerance. Do we have to accommodate this request?**

- A. If you have a dietary request form on file that is signed by a licensed medical practitioner, you must accommodate the request. The differentiation between “disability” and “non-disability” is no longer applicable. In the example provided, since the form was signed by a medical practitioner, the request should be accommodated. You should follow up with the parent and/or practitioner to make sure that the form provides all necessary information (see question #5). Per SP 59-2016: “The central concern for SFAs should be ensuring equal opportunity to participate in or benefit from the program rather than determining whether a particular physical or mental impairment is severe enough to qualify as a disability.”

**Q10. If the medical statement indicates that a specific brand of product must be substituted, must we use that product?**

- A. SFAs are allowed to take cost and product availability into consideration and are not required to provide a specific product brand. SFAs must offer a reasonable substitution that effectively accommodates the child’s disability and are not required to match a menu item for a similar menu item. For example, a SFA is not required to provide a student with lactose intolerance with lactose-free pizza on a day when pizza is on the menu, but may substitute a different menu item such as a grilled chicken patty sandwich. Likewise, if the medical statement for a child with celiac disease indicates that a specific brand of gluten-free bread be substituted, the SFA is allowed to substitute a different brand of gluten-free bread, or offer an alternate menu item such as brown rice or whole grain-rich corn tortillas to meet the request. Modifications made based on a signed statement from a licensed medical practitioner do not have to meet meal pattern requirements to be reimbursable. It is strongly suggested that the SFA work closely with each family on a case by case basis to determine how best to manage the request and ensure the SFA is providing the student with an equal opportunity to participate in and benefit from the school nutrition program.

**Q11. What if a parent requests an additional menu modification that is not listed on the medical statement? For example, we have a signed medical statement on file for a student requiring a gluten-free diet. The student’s mother requested that we also do not serve dairy to this student, as she feels it upsets his stomach. The dairy-free request is not included on the medical statement.**

- A. SFAs are not required to make additional modifications that are not included on the signed medical statement. You must accommodate the specific request(s) that is on a form that is signed by a licensed medical practitioner. If a parent feels that additional dietary accommodations should be made, they should submit another signed medical statement.

**Q12. Our school offers the NSLP but not the SBP. We received a signed medical statement requesting that we serve breakfast to a student with a special dietary need. Do we need to accommodate this request?**

- A. Yes, SFAs must accommodate this request if it is supported by a signed medical statement or an IEP. The school may use the school cafeteria facilities to provide the breakfast. The cost of preparing the breakfast is an allowable food service account cost.

**Q13. Are we allowed to make a student with severe food allergies sit at a separate table away from other students at lunch?**

- A. SFAs must provide meals in the most integrated setting appropriate to the needs of the child. If necessary, SFAs may require children with severe food allergies to sit at a separate table to control exposure. However, it is not appropriate to simultaneously use this table to segregate children as punishment for misconduct. For example, the table used for students with allergies should not also be the table where children are sent for misbehaving. Per SP 59-2016, "Exclusion of any child from the Program environment is not considered an appropriate or reasonable modification."

**Q14. What happens if a dietary request is included in a student's Individual Education Plan (IEP)?**

- A. If the IEP includes information on the physical or mental impairment, an explanation of what must be done to accommodate the disability, and specific information on what dietary modifications or substitutions must be made, the SFA can accommodate the request without further documentation from the household or licensed medical authority.

**Q15. We have a student who comes to school for one hour per day (not during meal time). We received a medical statement requesting that we deliver a reimbursable meal to this student's home.**

- A. SFAs do not need to accommodate this type of request. This request would result in fundamental alteration of the program.

**Q16. Who is responsible for managing special dietary requests in the school?**

- A. Per SP 59-2016, SFAs with more than 15 staff members must designate someone to coordinate special dietary requests. However, all SFAs are strongly encouraged to develop a team to manage special dietary requests. Suggested members include an administrator, school nurse or health aide, IEP coordinator, and the school nutrition program director.

**Q17. What does memo SP 59-2016 mean by "procedural safeguards"?**

- A. SFAs must have a procedure in place that allows parents or guardians to request dietary modifications for children with disabilities and to resolve grievances. Parents or guardians must be notified of this procedure so they understand the process. They must also be allowed an impartial hearing process to resolve grievances related to requests for modifications based on disability.